

**REMARKS**

Claims 1-6, 8-13, 15-20, 22 and 23, all the claims now pending in the application, stand rejected.

***Drawings***

The Examiner objects to the drawings under 37 CFR 1.83(a) because they do not show the features in the claims drawn to a passageway formed between the plurality of concurrently existing tracks. The feature is described at page 11 and is found in the claims (5, 12 and 19). Applicant is submitting herewith for the Examiner's approval a new Figure 5 showing a detail of the passageway. As illustrated, the passageway serves to allow a racing model to move from one track to another. This feature would be understood by one skilled in the art from the original disclosure. This new Figure 5 does not add new matter.

***Claim Interpretation Note***

The Examiner asserts that the term "track" is not found in the specification and, thus, has interpreted the term "tracks" as corresponding to the term "courses" as described at pages 6 and 7 of the specification, and interprets the tracks as being "independent." Applicant respectfully points the Examiner to the clear disclosure at page 10 that identifies the existence of a field 10 with independent "tracks" 12 and 13 that are concentrically formed and simulate a turf course or "turf track" and a dirt course or "dirt track." Applicant respectfully requests that the Examiner use the terminology as defined in the specification without any added limitations. Applicant does agree, however, that the tracks are "independent" in that they are separate physical entities and would not be used at the same time, i.e., two races would not be run at the same time.

***Claim Rejections - 35 U.S.C. § 103***

Claims 1-3, 5, 6, 8-10, 12, 13, 15-17, 19 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fongeallaz et al (5,186,460) in view of Filiczowski (5,106,098). This rejection is traversed for at least the following reasons.

**The Invention**

Claims 1, 8 and 15, which define different aspects of the invention, are the only independent claims. Each calls at least for:

(1) A “racing field” formed on a predetermined board, and having a plurality of “tracks” currently existing on the board, and

(2) The “tracks” are separate and distinct areas on the common racing field that have different characteristics, i.e., running environments (dirt or turf). As would be understood by one skilled in the art from the clear disclosure and conventional meaning in the art, the “tracks” are not different lanes but are defined as different racing environments. For example, as defined in dependent claims, one track maximizes steady running while the other obstructs steady running.

(3) A “running model,” having an inherent ability parameter that varies in accordance with a given environment, which runs a race on the racing field in accordance with the respective tracks. The “running model” in the preferred embodiment is a racehorse that runs a race on a predetermined track (page 8, lines 1-15). This is a physical “model” and not a mere electronic representation, as the dependent claims (e.g., 5) define the passageway as permitting a running model to “enter and exit, and the same running model can run on races on the plurality of tracks.”

The invention, as disclosed in an exemplary embodiment illustrated in Fig. 1, has a racing field 10 with two concentric tracks 12, 13 and a starting gate 11 that is disposed across the two tracks 12, 13. While a physical embodiment of the racing model is not illustrated, it would be clear to one skilled in the art that the horse racing field will carry physical models of a race horse (although other racing models such as cars, boats or cycles could be used in different track and field environments). The computer-controlled arrangement as illustrated schematically in Fig. 4 uses a main controller 61 is coupled to storage devices for race horse data 63 and player data 64, and interfaces with a station controller 62 so that users at a plurality of stations 20 can participate in the horse race game. The main controller is coupled to a wireless communication unit 65 that, in an exemplary embodiment, will control the physical racing model. We note, however, that the specification teaches that the invention can be applied to an electronically formed game machine, using holography, for example (page 23). Nonetheless, in such case, the racing model would be provided as an accurate replica of a horse, car or the like in a realistic race track environment. Please confirm our understanding.

In the previous amendment, Applicant distinguished the patent to Fongellaz because it envisioned the single track generated on an electronic display. Applicant asserted that the

limitations in the claim to a plurality of tracks that are concurrently existing on the board distinguish the invention from Fongeallaz et al. The Examiner asserts in the present rejection that the plurality of tracks may be seen as rows L1-L16 of Fig. 13. The Examiner admits that the rows are not “independent” but looks to the board game illustration in Filiczowski for a teaching and motivation to modify Fongeallaz and arrive at the present invention. Applicant submits that the Examiner’s position is erroneous for the following reasons.

**Fongeallaz et al Does Not Teach Plural Concurrently Existing Tracks**

As already noted, the term “tracks” has a conventional meaning in the horse racing, auto racing, etc. arts, and relates to the surface on which plural racing models (whether horses, cars or cycles) can compete in a single race. The illustration in Fig. 13 of Fongeallaz is of individual “lanes” on a single track. Individual “lanes” are not considered a “track” in an actual race since the horses, autos or cycles will start in a lane and change them in the course of a race on the track. Fongeallaz et al uses the term “track” in the conventional sense, as is clear from the disclosure at col. 2, lines 43-56 (“the horses on at least part of the track...causing the horses to move along the track as the race progresses”). Fongeallaz et al also uses the term “lane” to refer to a path for each horse on the single track, as is clear from the disclosure at col. 3, lines 55-61 (“each of the X dimensions correspond to a lane, referenced L0-L16...”). The lanes are all used at the same time, in a single race on a single track.

The disclosure in the specification of the present application and the use of the term “track” as applied to tracks 12 and 13 are wholly consistent with the conventional definition. The Applicant’s tracks are represented by separate and distinct areas on the common racing field that have different characteristics, i.e., running environments (dirt or turf). Running models would run on one or the other of such tracks in a single race. The two tracks would be present on the racing field when a race is run, but both would not be used at the same time, and as such, are independent as understood by the Examiner.

As would be understood by one skilled in the art from the clear disclosure in the present application, the teachings in Fongeallaz et al and conventional meaning in the art, the disclosed and claimed “tracks” are not different lanes but are defined as different racing environments. The concurrent existence of different “tracks” as opposed to “lanes” is not seen or suggested in

Fongeallaz et al, as admitted by the Examiner in concluding that there is no teaching of independent tracks.

**Fongeallaz et al Is Incompatible with Plural Concurrently Existing Tracks**

Fongeallaz et al teaches a two dimensional array AR which “mimics” a race track or course and the array AR is defined by X and Y dimensions (col. 3, lines 34-54). The array is taught to represent a single track in a single array. The focus of the game is on the conduct of a single race that can have plural participants, i.e., plural horses or autos. However, it would serve no useful purpose and, in fact, would detract from the enjoyment and attention of a player of a game to have a concurrent representation of plural tracks. Major portions of a display would go unused and blank if another eight to twelve lanes were added to the array to represent a second and concurrently displayed track. Unlike the present invention where the racing field has plural concurrently existing tracks and provides an attractive realistic environment, the simulated array is nothing but a group of rows of display elements where the addition of more unused rows would give no further sense of a track environment or provide more excitement or enjoyment. Indeed, no one would be led to creating such array since it would not provide any added marketable or useful features to a purchaser.

**Filiczkowski Provides No Relevant Teaching**

Filiczkowski (5,106,098), does not teach a computer-based game, but merely a manual board game involving cards. The two tracks appear on the board solely to save the cost of printing the tracks on separate boards or separate sides of a single board. There is no suggestion that the board game can be converted to electronic form. The concept of concurrently presenting plural tracks in an electronic game, such as those used in gambling casinos, involves totally different considerations related to the structure, operation and environment of the game. One skilled in the art would not look to a simple board game for a teaching of how to implement an electronic game, as claimed. One of ordinary skill implementing a racing game would only present one track at a time and, particularly when viewing Fongeallaz et al, would not look to add another group of rows to the array of Fig. 13, as already discussed.

**Neither Fongeallaz et al nor Filiczkowski Provides any Motivation**

Neither Fongeallaz et al nor Filiczkowski alone or in combination provides the basis for obviousness of the claimed invention since there is no motivation for their combination. The

display of two tracks concurrently and the modification of the running model based upon current ability parameters in accordance with a respective track is not taught in the prior art. Further, the Applicant would submit that the modification of Fongeallaz to include two tracks concurrently, whether or not considering the simply board game of Filiczkowski, would involve a matter of hindsight. There is no reason given by the Examiner for modifying Fongeallaz to increase the options and activity in the Fongeallaz game. Many technical limitations would preclude such modification, including size of the screen, processing ability, etc. Further, there are many operational reasons why such change would not be obvious including the absence of any clear identification of a player's interest in multiple choices and additional complex game structures. In the absence of such teaching or suggestion, there is no motivation for making the modification, other than hindsight based on Applicant's own disclosure.

#### **No Dependent Claims Are In the Prior Art**

As to the dependent claims 2, 3, 9, 10, 16 and 17, the Examiner admits that Fongeallaz et al fails to teach entire tracks where the current ability parameter of the running model is maximized or minimized. This deficiency is not made up by anything in the manual game board in Filiczkowski. First, the patent to Filiczkowski does not teach running models, as that term is used to represent electronically moveable pieces in the environment of a computerized game system (as claimed, "caused to run a race"). The claimed running models have calculated parameters that are maximized and minimized, and would not be suggested by a static board game that is operated only with mental and manual processes of a player.

With regard to claims 6, 13 and 20, which are directed to concentric tracks, the illustration in Filiczkowski would not suggest a concentric track in a planar array as seen in Fongeallaz et al. There is no teaching as to how any such concentric track would be designed or implemented electronically or mechanically. This rejection is based only on Applicant's teachings. Similarly, the claims directed to tracks having different attributes that exist concurrently, are not taught.

Claims 4, 11, 18 and 22 are directed to concurrent tracks that are dirt or turf tracks. The concurrent presentation of these two tracks on a single field of an electronic game is not obvious as it is not suggested in the art. The board game is not relevant art. The only electronic game applied by the Examiner teaches only one track at a time. Applicant's advance over that art is

significant, in that it concurrently presents two tracks in an electronic game environment and presents players with an opportunity to select those of the games and tracks on which they will run their racing models. Nothing of this sort is taught in Fongeallaz et al or suggested in Filiczkowski, as already noted.

Finally with regard to the passageways of claims 5, 12 and 19, the Examiner's assertion that the starting posts and finish lines are passageways is simply wrong. There is nothing in the reference that would enable these posts or lines to perform the functions of the passageways of the disclosed and claimed invention. The passageways permit movement of a running model from one track to another.

Claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fongeallaz as applied to claim 22, and further in view of Ikeda et al (6,371,854). This rejection is traversed for at least the following reasons. Applicant asserts that Ikeda does not remedy the deficiencies of the prior art patent to Fongeallaz. The Examiner has not cited the reference for such purpose.

Applicant continues to rely upon the absence of any motivation to add two concurrent tracks to Fongeallaz as a basis for patentability.

In short, the advance developed by the Applicant in displaying or presenting two tracks concurrently on a electronic or computer-driven game so that additional options and exciting opportunities exist for the game players is not obvious from viewing the single track in Fongeallaz and a simple board in Filiczkowski.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

USSN 09/783,096

Amendment Under 37 C.F.R. § 1.111

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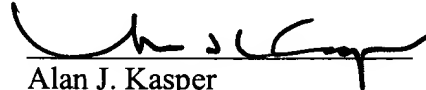
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**23373**

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